

Change # 01-2008 Medical Neglect of Disabled Infants with Life Threatening Conditions April 2008

1438 – MEDICAL NEGLECT OF DISABLED INFANTS WITH LIFE THREATENING CONDITIONS

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I. INTRODUCTION

Evaluating reports of suspected medical neglect of disabled infants with life-threatening conditions, also known as "Baby Doe cases", requires special procedures by county Departments of Social Services (hereafter, DSS). These procedures are an outgrowth of Federal rulings and U.S. Supreme Court cases in the 1980s. These rulings require that county DSS respond to reports of medical neglect of such infants, that the responsibility to report situations of possible medical neglect is clearly communicated to hospital staff, and that procedures for rapid response to such reports are in place and regularly updated.

II. LEGAL BASIS

A "neglected child" means a person less than 18 years of age as defined in [N.C.G.S. §7B-101](#) as, "a juvenile who does not receive proper care, supervision, or discipline from the juvenile's parent, guardian, custodian, or caretaker; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or who has been placed for care or adoption in violation of law." A neglected child is also a disabled infant with a life-threatening condition from whom appropriate nutrition, hydration or medication is being withheld; a neglected child is also a disabled infant under one year of age with a life-threatening condition from whom medically indicated treatment, which in the treating physician's reasonable medical judgement, would be most likely to be effective in ameliorating or correcting such life-threatening conditions, is being withheld, unless in the treating physician's reasonable medical judgement any of the following conditions exist:

- Infant is chronically ill and irreversibly comatose
- The provision of medical treatment would merely prolong dying, would not ameliorate or correct all of the life threatening conditions, or would otherwise be futile in terms of the survival of the infant
- The provision of medical treatment would be virtually futile in terms of the survival of the infant and under the circumstances the treatment would be inhumane

Institution means any public or private institution, facility, agency, group, organization, corporation, or partnership employing, directing, assisting, or providing its facilities to persons who, as a part of their usual responsibilities give care or services to children less than 18 years of age and any hospital or other health care facility providing treatment to infants with life-threatening conditions (formerly 10A NCAC 411.0303(6)).

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These definitions neither limit nor add to the duty of the director of the DSS to receive and assess all reports of medical neglect ([N.C.G.S. § 7B-300](#), [N.C.G.S. §7B-301](#), and [N.C.G.S. §7B-302](#)). The specifications in rule were made to clarify the special situations involving disabled infants and the institutions in which they may be found at the time a report is received.

III. SPECIAL PROCEDURES

A. Case Assignment

The medical neglect of disabled infants with life threatening condition, pursuant to [Public Law 98-457](#) ("Baby Doe") is considered a special type of neglect report and shall be assigned as an Investigative Assessment response.

B. Contact with Local Hospitals and Health Care Facilities

In order to be prepared before an emergency exists, advanced planning must take place between the county DSS and the hospitals or health care facilities. Procedures for coordination and cooperation should be developed and implemented through a collaborative effort involving both systems. The procedures should maximize timely responses on the part of the county DSS and minimize disruption of activities in the hospital or health care facility.

Each county director of social services must, at a minimum:

1. Contact each hospital or health care facility located in the county that provides treatment services to infants to:
 - a. Provide the hospital or health care facility with information about the mandatory reporting law that applies to all persons
 - b. Provide the hospital or health care facility with procedures for making a report of suspected or known medical neglect to the local county DSS including the name and telephone number of contact persons for receiving reports during **and** after working hours
 - c. Obtain the name and telephone number of the person in the hospital or health care facility who will act as liaison with the local county DSS
2. Maintain a current list of hospital and health care facility liaison persons and update the information at least annually.

C. Conducting a Thorough Investigative Assessment

Because of the complex nature of the medical conditions that an infant might have, medical consultation will be needed in conducting the Investigative

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Assessment. The hospital or health care facility staff in which the infant is receiving care will, in most cases, be the primary resource for that consultation. In some situations, there will be a need to review medical records and/or obtain an independent examination. Ordinarily, a request would be made of the child's parents to sign a release allowing review of relevant information and/or to allow an independent exam. In the event the parent refuses and/or the hospital or health care facility will not allow access the county director of social services would initiate court action following existing provisions under the Juvenile Code ([N.C.G.S. §7B-303](#), [N.C.G.S. §7B-403](#), and [N.C.G.S. §7B-404](#)) for filing a petition.

D. Collaboration Among Counties

In some instances a child will be hospitalized in a medical facility in one county and the county of residence is another. A report of suspected medical neglect may be received by either county. In the interest of acting immediately when a child's life may be threatened, the county DSS where the medical facility is located must assume lead responsibility for the Investigative Assessment. Close coordination and cooperation between the two counties are essential. Once the crisis situation is resolved the two counties may decide when it is appropriate to transfer the case to the county of residence for planning and arranging whatever ongoing services may be needed for the child and his family. For more information on jurisdictional issues during the provision of child protective services please refer to the [Family Services Manual Volume I; Chapter V: Jurisdiction in Child Welfare.](#)